

UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF TEXAS, MARSHALL DIVISION

MERS KUTT,

Plaintiff,

v.

APPLE INC. Et AL

Defendant.

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Civil Case 2: 19cv316

**PLAINTIFF’S RESPONSE TO DEFENDANT’S MOTION TO DISMISS PLAINTIFF’S
AMENDED COMPLAINT**

1. Plaintiff Mers Kutt, submits Defendant’s Motion for Dismissal should be denied.
2. Plaintiff meets the requirements of Defendant’s “Statements OF Issues To Be Decided” and will respond to them below, however he will first point out that this case has unique ‘features’ possibly never experienced in court before and they are relevant to Defendants’ Motion as well as the case.
3. In 1995 the patented ‘981 technology (“981”) was added to the personal computer (“PC”), which plaintiff invented in 1973, and that made the PC so powerful that the PC now reigns supreme worldwide.
4. In 2017, the PC was raised to the highest rank of all of the inventions in computers in the history of the world. As a result, what the PC has accomplished has put this case in

Marshall, East Texas in a position to make a huge contribution to the computer field, the world's largest discipline.

5. Even more surprising, this case also has the potential to make a similar contribution at the world level because most of the corporate Defendants in this case are giants at both levels.
6. ALL Supercharge PC is the product that includes both '981 technology and ALL Chargecard technologies, and they are the 2 latest technologies developed at ALL Computers Inc., the company Plaintiff founded in 1975.
7. ALL Chargecard in 1988 became the only unanimous winner of the computer world's top prize, the Technical Excellence Award. It's combination with the '981 technology in 1995 resulted in the 7 billion stand-alone PCs and PC-based products also following suit.
8. The full force of the ALL Supercharge PC was not felt until iPhone began using it in 2007 and the 'effective performance level' increased by an unprecedented factor as high as 30/1.
9. Intel lowered the frequency mainly in an attempt to hide their infringement, however they kept it at a level high enough to allow graphics to be added to internet which triggered the 'Dot-Com' explosive growth of internet and the PC.
10. The biggest benefactors are the Defendants in this case and as a group they used the same tactics of 'keeping secrets' and 'telling lies' ("S&Ls") to mislead people in computers and the world.
11. They kept the obsolescence of their products a 'secret' for long periods and they 'lied' about the PC and kept the PC a secret for 30 years until IEEE the largest professional organization published all the details in the Annals of the History of Computing.

19. Plaintiff, a Full Professor in mathematics by the age of 32, detected a “Scam” in the process used to increase inflation by a factor of 2/1 during many cycles typically ranging between 13 and 17 years. He was surprised he did not detect it earlier, particularly because it was grossly unfair with how it was distributing ‘Federal government funds’ to all of the people in United States.
20. Because the Corporate Defendants and their CEOs in Group B that are involved with infringement of ‘81, are also the same Defendants that have profited hundreds of billion dollars as a result of the Scam.
21. Damages due to ‘81 involvement must be paid to Plaintiff for him to be able to redistribute to him, his family and the large number of people involved that supported Plaintiff earlier. This portion can be as low as 1% if successful The remainder will be deposited in a Charitable Foundation
22. Plaintiff was concerned about having so many Defendants in the case, however fortunately having just the single ‘81 extremely powerful technology doing so much, allows us to very efficiently deal with infringement at Group B level, and possible also with the 2 parties in Group A.
23. Individual cases would be avoided and the individuals Defendants need only provide the list of models of Personal Computers and PC-based products involved and their respective volumes prior to the hearing, and any that truly do not infringe will also be readily flushed out prior to and at the hearing.
24. The patented ‘81 technology’ is actually easy to understand however its impact on the world is unprecedented and probably why Defendant in the remarks that follow obviously

either did not believe '981 technology was possible or was hoping hard that it would not be disclosed.

25. The volume of total sales of PCs and PC-based products grew to about 7.5 billion since 1996 (see graph Page 36 of 73 PageID #: 935). It reached this level with the sale of 4.959 billion PCs, and the text on the same page indicates how the additional 2.5 billion PC-based products were also sold during that period and reached the total of 7.5 billion.
26. The text on the same page also explains how about 7.0 billion units included the '981 technology and along with the ZDNet quote that it references, explains that the high performance resulting from the '981 technology is what generated the high-resolution required for the displays to produce the beautiful pictures, which was definitely the biggest selling feature of smartphones.
27. It is also noteworthy that well under 6.7% of the 7.5 billion PC and PC-based products brought into the world since 1996, did not include the '981 technology, which means well over 93.3% PC, and PC-based products such as iPhone, do include '981 technology.
28. This worldwide dominance of the '981 technology is what significantly mitigates the problems of having so many Defendants (41) and it does it primarily because almost everyone is infringing the same '981 technology and as a result we are only dealing with 3 Groups of Defendants and only Group B with 28 Corporations without CEOs.
29. CEOs will only be involved with the Scam issue, not infringement. Defendant Verizon is included in the 28 parties.
30. In 2017, National Geographic invited Carla Hayden, the United States Librarian of Congress, which is the largest and highly respected library in the world, to select the top 10 inventions in history for changing the world (see Page 22 of 73 PageID #: 921).

31. Wright brothers' airplane was ranked #2, and Alexander Graham Bell's telephone was ranked #8, and the personal computer ("PC"), was ranked #4.
32. The combination of National Geographic and the United States Librarian of Congress have made a huge, lasting contribution.

Other Issues listed Defendant's Motion for Dismissal

33. Defendant Verizon's comments about Plaintiff's submission of the Amended Complaint with attached Summons and the description of the invention along with the proof Plaintiff provided earlier as well as above, hardly begs Defendant's comments such as:
- i. "a host of unintelligible allegations"
 - ii. "incoherent ramblings"
 - iii. "some '7 billion' 'PC-based products' of United States Patent of U.S. Patent No. 5,506,981 ('the '981 patent')."
 - iv. "dismissal is also appropriate when claims are clearly baseless, including describing fantastical or delusional scenarios"

Plaintiff's Response:

Defendant Verizon makes no quotes or reference to specific items in the Amended Complaint. Defendant comes closest to a reference when in iii. he states "some 7 billion" implying the figure is false, however as indicated above in detail, the Amended Complaint explains how the 7 billion was calculated, and also includes a published chart (Page 36 of 73 PageID #: 935) which provides 4.959 billion PCs, and the other 2.5 billion PC-based products is also explained.

Re: II. Statement of Issues to be decided.

34. As indicated separately below with details, the '981 patent did not expire more than 6 years before Plaintiff filed suit.

Rule 12(b)(6) "fail to state a plausible claim for relief"

35. As explained above, every party in the Group B had the claims to Group B apply to each of the 28 Defendants in Group B, and there were many claims stated in the Amended Complaint.

Rule 12(b)(1) "Plaintiff's complaint is facially frivolous and..."

36. False, and also specific reference to Amended Complaint by Defendant are avoided throughout submission of Motion and also deny paragraphs 4 and 5. the 2 include

Rule 12(b)(4)

37. A proper Service of Summons and a proper Service of Process were made.

38. Defendant also claims "the '981 patent expired more than 6 years ago"

39. Not so, as the date of October 1, 2013, 20 years from Oct 1, 1993, prevails as the 'many changes in the CIP are completely new and significant' and with such CIPs the later filing date of October 1, 1993 applies.

- the completely new technology is ranked as the #1 computer invention in history, while the earlier filing was dropped totally within months and certainly did not win any awards in history, or at all, let alone being included in the top 10;
- 41 Defendants vs. 1 Defendant;
- the earlier technology applied only to frequencies under 100MHz while '981 applies with no limits, lower or higher;

- the CIP did not use a 2nd crystal which was a major requisite in earlier technology;
- Plaintiff stopped payment of fees for first filing very quickly because the technology had no future;

40. Closing the CIP issue with “the new claims solely relate to new subject matter and is assigned the filing date of the later filed CIP application, which in this case is October 1, 1993, not March or April.”

41. Without the 3000% increase in PC performance, there would not have been the giant volumes of web sales by Amazon, and users of social media like Facebook. These provide additional proof that Plaintiff’s “allegations” and “ramblings” were definitely ‘intelligible’ and ‘coherent’.

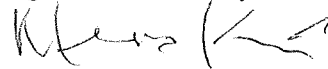
42. The Court should not dismiss due to the filing date which is counter to Defendant’s claim. The case was filed on September 20, 2019, which is prior to expiration date of October1, 2019.

43. Closing with a brief reference to facts covered in detail in the Amended Complaint relating to the Court will be asked to rule on an earlier ‘filing date’ due to a long list of Defendant actions that intentionally caused delays and severe loss of funds, time, and energy and just 2 examples are:

illegal loss (with proof) of \$225,000 rental income, due to two female Defendants, Azevedo and Devins;

and the biggest of all, being illegally foreclosed in March, just 6 months before the patent expired in October 2013, and evicted in September (with proof),. The condo could have been sold earlier to an unsolicited buyer for US\$875,000 but Plaintiff enjoyed it and also had owned for 32 years without missing a payment.

Original SIGNED by MERS KUTT



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Plus:

Groups B and C (Addresses in Parties Section)

Exhibit 1 Follows